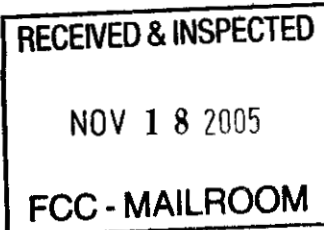

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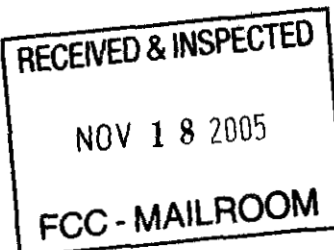
From: 9287252114
Media: Fax 12 pages
Subject:
Status:
Received: 09:14 PM 11/18/05



No. of Copies rec'd 0
List A B C D E

**PIÑON UNIFIED SCHOOL DISTRICT #4**

PO Box 839, Piñon Arizona 86510

Fax**To:** Federal Communications Commission**From:** Steve Huxhold, Technology Coordinator

Pinon Unified School District #4

1 mile north of Pinon on Navajo Rte 41

Pinon, AZ 86510

928-725-2175 ph

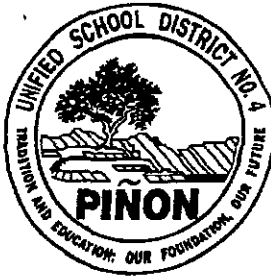
928-725-2123 fax

Email: shuxhold@pusdatsa.org

Fax: 202-418-0187**Pages:** 12 including this cover sheet**Phone:****Date:** 11/18/2005**Re:** Request for Review**CC:** file☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle• **Comments:**

Please send email upon receipt

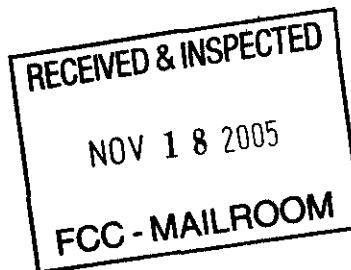
Thank You

**PINON UNIFIED SCHOOL DISTRICT #4**

PO Box 839, Pinon Arizona 86510

November 17, 2005

Request for Review
Federal Communications Commission
Office of the Secretary
445-12th Street, SW
Washington, DC 20554



Dear Sir or Madam:

Please let this letter serve as our request for review of the USAC Administrator's Decision on Appeal – Funding Year 2004 dated September 19, 2005.

CC Docket No. 02-6

Billed Entity Number: 143227

Billed Entity Name: Pinon Unified School District #4

Form 471 Application Number: 402870

Funding Request Numbers: 1127559, 1127780

Funding Notification states:

Similarities in description on Forms 470 and in selective review responses among applications associated with this vendor indicate that the vendor was improperly involved in the competitive bidding and vendor selection process.

As stated in my appeal letter to the SLD on June 6, 2005, I completed, signed and filed the Form 470 and responded to the SLD selective review process.

The service provider in question, Premise One, Inc, was in no way involved in the filing of Form 470, the competitive bidding process. Any assistance from the service provider for the RFP was neutral, which is permissible as per the statement on the SLD website. Due to our remote location on the Navajo reservation, there are very few vendors who are willing to provide services. As evidenced in the attached evaluation sheet from the competitive bidding process, Premise One, Inc. was the only vendor that submitted a complete bid by the deadline. The other vendors submitted incomplete bids after the deadline.

With respect to the issue about the similarities in description on Form 470 and Selective Review Responses provided to SLD among other applications, perhaps that is due to the fact that other schools on our reservation as well as neighboring reservations have similar needs and requested similar services. Perhaps the similarities resulted from conversations I had with technology coordinators from other schools?

Enclosed please find a copy of the SLD Administrator's Decision on Appeal – Funding Year 2004; my SLD letter of appeal; SLD Funding Commitment Report; and evaluation sheet from competitive bidding process for FY 2004.

Sincerely,

Steve Huxhold
Technology Coordinator
Pinon Unified School District
1 mile north of Pinon on Navajo Rte 41
Pinon, AZ 86510
928-725-2175 telephone
928-725-2123 fax
Email: shuxhold@pusdatsa.org

No. of Copies rec'd 0
List A B C D E

Phone: (928) 725-3450 Fax: (928) 725-3278/2123

Pinon School District # 4 SLD Selective Review**Part 1 Selective Review****Competitive bidding****1 requests for proposal**

a - We posted our form 470 on 11/6/2003, we posted our form 471's on 1/28/04 and 1/30/04. Form 470's were posted for 82 and 84 days. We did not do a separate RFP.

b - Pinon District form 470 number was 208140000466597

c - Our district would use state approved vendors if no other responses were received. Also some frn's are for month to month and tariff services.

2 bid responses

Block 5 Attachments are being included.

Jan 15

3 Vendor selection

a - Service Type	Block 5 Frn	bid information
1 -Telecomm	1127082	1 bid
2 -Telecomm	1127110	1 bid
3 -Telecomm	1127209	1 bid
4 -Telecomm	1127228	1 bid
5 -Telecomm	1127247	1 bid
6 -Telecomm	1127268	1 bid
7 -Internet	1127424	1 bid
8 -Internal	1127559	1 bid
9 -Internet	1127780	1 bid
10 -Telecomm	1128270	1 bid
11 -Telecomm	1128319	1 bid
12 -Internal	1184864	1 bid
13 -Internet	1185310	1 bid

b - 1 - Cost, Qualifications (state licensed), service availability

2 - Service Type	Block 5 Frn	bid information
1 -Telecomm	1127082	tariff
2 -Telecomm	1127110	tariff
3 -Telecomm	1127209	tariff
4 -Telecomm	1127228	tariff
5 -Telecomm	1127247	tariff
6 -Telecomm	1127268	tariff
7 -Internet	1127424	single bid, only provider
8 -Internal	1127559	State contract
9 -Internet	1127780	State contract
10 -Telecomm	1128270	single bid, limited service area
11 -Telecomm	1128319	single bid, limited service area
12 -Internal	1184864	single bid, current provider

13 -Internet 1185310 single bid, limited service
area

3 - The business manager and superintendent were informed of our
470 being posted, service categories and funding requests. This
process was done in a meeting on e-rate with verbal
communications on all that we would be applying for.

c - Arizona State Article R7-2-1032. Only One bid received
If only one responsive bid is received in response to an invitation for
bids, an award may be made to the single bidder if the school district
determines that the price submitted is fair and reasonable, and that
either other prospective bidders had reasonable opportunity to respond,
or there is not adequate time for resolicitation.

4 Contracts

a - this would be the same documentation as in 2a
b - no changes in contract pricing
c - State Master contracts
- State contract numbers
AD000170-001, AD000193-011, AD00197-016 for FRN #1127559,
AD000170-002 for FRN #1184864
d - see 2a

5 Consultant Agreements

a - No consulting

6 Correspondence

a - no consultant correspondence



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

September 19, 2005

Steve Huxhold
Pinon Unified School District #4
1 mile North of Pinon on Navajo Route 41
Pinon, AZ 86510

Re: Applicant Name: PINON UNIF SCHOOL DISTRICT 4
Billed Entity Number: 143227
Form 471 Application Number: 402870
Funding Request Number(s): 1127559, 1127780
Your Correspondence Dated: June 06, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1127559, 1127780
Decision on Appeal: Denied
Explanation:

- On appeal, you assert that the Year 7 E-rate 470 application for your school was completed, signed and filed by you, Technology Coordinator, for the school. In addition, almost all services and products were on Arizona State Master Contracts. Furthermore, the school responded to the SLD requests during the Selective Review process, and all emails, hard copy documents, conversations with SLD reviewer and signatures provided were done by you, Technology Coordinator, for the school district. Copies of funding commitment reports and State SFB contract notice are included as attachments on appeal. In closing the appeal you affirm that the funding request should be approved on the basis stated above.

- Upon thorough review of the appeal letter and supporting documentation, it was determined that SLD's decision to deny the funding request was correct. Close examination of Pinon Unified School District 4's documentation submitted in response to SLD's request for additional documentation during the Form 471 Selective Review process displayed striking similarities to the Forms 470 and competitive bidding responses among applicants selecting Premise One, Inc. as their service provider. During Selective Review of the service provider, responses collected from entities that had selected Premise One, Inc. as their service provider indicated that there were similar patterns between Forms 470 and competitive bidding responses. The Form 470 and competitive bidding response for this entity also fit the pattern of that of other entities that have Premise One, Inc. as a service provider. Further investigation by the Program Compliance team of randomly chosen Form 471 applications confirmed the above findings. The applications all exhibit pattern Forms 470 and competitive bidding responses that imply service provider involvement in the bidding process.

As is noted on the SLD website (www.sl.universalservice.org/whatsnew/reminders-F470.asp), applicants may not delegate the competitive evaluation role to anyone associated with a service provider. A "Fair" competition means that "all bidders are treated the same, and that no bidder has advance knowledge of the information contained in the RFP." Applicants and services providers should not have a relationship prior to competitive bidding "that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way." An example of when a conflict of interest exists is "when an applicant's consultant, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." A service provider, who will participate in the competitive process as a bidder, cannot complete the Form 470. Assistance from service providers in developing Requests for Proposals (RFPs) "is permissible even if the service provider plans to submit a bid in response to that RFP, as long as the service provider's assistance is neutral." For example, RFPs may not be written in a way that only the service provider who assisted could win the bid. The above findings indicate that the vendor was improperly involved in the competitive bidding process, which is a violation of the rules of this Support Mechanism.

- SLD denied your funding requests because it determined that similarities in the Form 470 and Selective Review Responses provided to SLD among applicants associated with this vendor, indicate that the vendor was improperly involved in the competitive bidding and/or vendor selection process. In your appeal, you have not shown that SLD's determination was incorrect. Consequently, SLD denies your appeal.
- FCC rules require applicants to submit an FCC Form 470 to USAC for posting on its web site. 47 C.F.R. § 54.504(b). The FCC requires applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." Federal-State Joint Board on Universal

Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. The Form 470 warns applicants that "[s]ervice provider involvement with the preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests." See *Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470*, OMB 3060-0806 (*FCC Form 470*). Once the applicant enters into an agreement(s) with the service provider(s), the applicant submits an FCC Form 471 to SLD. 47 C.F.R. § 54.504(c). The FCC has stated that applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. Request for Review by Bethlehem Temple Christian School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, DA-01-852 ¶ 6 (rel. Apr. 6, 2001).

- Pursuant to its authority to administer the Schools and Libraries Support Mechanism, SLD selects certain applicants for a Selective Review to ensure that they are following FCC rules relating to, among other things, the competitive bidding process. Applicants who are chosen for this review are sent the "E-Rate Selective Review Information Request." As part of this request, applicants are asked to answer certain questions regarding their competitive bidding and vendor selection process. In particular, applicants are asked to:

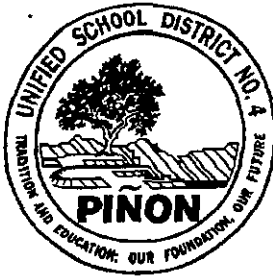
Please provide complete documentation indicating how and why you selected the service provider(s). This documentation should include a description of your evaluation process and the factors you used to determine the winning contract(s).

- According to the Selective Review Information Request, the person authorized by the applicant to sign on the applicant's behalf, or the entity's authorized representative, is required to certify that the authorized signer prepared the responses to the Selective Review Information Request on behalf of the entity.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



PIÑON UNIFIED SCHOOL DISTRICT #4

PO Box 839, Piñon Arizona 86510

June 6, 2005

RECEIVED & INSPECTED

NOV 18 2005

FCC - MAILROOM

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 S. Jefferson Road
Whippany, NJ 07981

Dear Sir or Madam:

Please let this letter serve as our request for an appeal to your recent funding notification on 3/24/2004.

Form 471 Application Number:	402870
Billed Entity Number:	143227
Funding Request Numbers:	1127559
	1127780
Billed Entity Name	Pinon Unified School District #4
Funding Year 2004/2005	
Funding notification states;	

Bidding Violation; Similarities in description on forms 470 and in selective review responses among applicants associated with this vendor indicate that the vendor was improperly involved in the competitive bidding and vendor selection process

Under the Appeals guidelines, we request funding on these two FRNs.

1 - Our year 7 Erate 470 application for the school district was completed, signed and filed only by our district. Specifically, I as Technology Coordinator posted it for the minimum 28 days and was available to receive bids. We met all State of Arizona and SLD requirements for procurement and there was no bidding violation.

2 - Since almost all services were on State Master Contracts, pricing was based on previous State bids.

3 - I responded to the many requests by the SLD during the selective review process and provided all the documentation. While service providers are allowed to provide general advice and provide answers during PIA process regarding the specific products and services on FRN's,

all final documents, inquiries, signatures, conversations and email were done between myself and the SLD reviewer.

This appeal is to request to receive full funding on the FRN's listed above.

Attached are copies of;

Funding commitment report

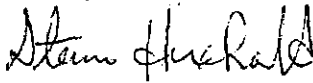
Item # 1, Item # 2

Copy of State SFB contract notice

Item # 3

You can reach me at the school at 928-725-2175 or 928-725-2123 (fax)
and by email at shuxhold@pusdatsa.org

Sincerely,



Steve Huxhold
Technology Coordinator
Pinon Unified School District
1 mile north of Pinon on Navajo Rte 41
Pinon, AZ 86510

FUNDING COMMITMENT REPORT

Service Provider Name: Premise One, Inc.
Service Provider Identification Number: 143019785

Funding Request Number: 1127559
Form 471 Application Number: 402870
Form 470 Application Number: 208140000466597
Name of 471 Applicant: PINON UNIF SCHOOL DISTRICT 4
Applicant Street Address: 1 MI N OF PINON ON RT 41
Applicant City: PINON
Applicant State: AZ
Applicant Zip: 86510
Entity Number: 143227
Name of Contact Person: Steve Huxhold
Preferred Mode of Contact: EMAIL
Contact Information: shuxhold@pusdatsa.org
Funding Year: 2004 (07/01/2004 - 06/30/2005)
Funding Status: Not Funded
Contract Number: mdl1404-pin
Services Ordered: Internal Connections
Billing Account Number: N/A
Allowable Vendor Selection/Contract Date: 12/04/2003
Contract Award Date: 01/28/2004
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2005
Monthly Recurring Charges: \$0.00
Portion of Monthly Recurring Charges that is Ineligible: \$0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: \$0.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$0.00
Annual Non-Recurring Charges: \$777619.57
Portion of Annual Non-Recurring Charges that is Ineligible: \$0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$777619.57
Total Program Year Pre-Discount Amount: \$777619.57
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Similarities in description on Forms 470 and in selective review responses among applicants associated with this vendor indicate that the vendor was improperly involved in the competitive bidding and vendor selection process.
Technology Plan Approval Status: Approved
Wave Number: 018
Applicant Letter Date: 05/10/2005

FUNDING COMMITMENT REPORT

Service Provider Name: Premise One, Inc.
Service Provider Identification Number: 143019785

Funding Request Number: 1127780
Form 471 Application Number: 402870
Form 470 Application Number: 208140000466597
Name of 471 Applicant: PINON UNIF SCHOOL DISTRICT 4
Applicant Street Address: 1 MI N OF PINON ON RT 41
Applicant City: PINON
Applicant State: AZ
Applicant Zip: 86510
Entity Number: 143227
Name of Contact Person: Steve Huxhold
Preferred Mode of Contact: EMAIL
Contact Information: shuxhold@pusdatsa.org
Funding Year: 2004 (07/01/2004 - 06/30/2005)
Funding Status: Not Funded
Contract Number: mdl1204-pin
Services Ordered: Internet Access
Billing Account Number: N/A
Allowable Vendor Selection/Contract Date: 12/04/2003
Contract Award Date: 01/28/2004
Service Start Date: 07/01/2004
Contract Expiration Date: 06/30/2005
Monthly Recurring Charges: \$0.00
Portion of Monthly Recurring Charges that is Ineligible: \$0.00
Eligible Monthly Pre-Discount Amount for Recurring Charges: \$0.00
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-Discount Amount for Eligible Recurring Charges: \$0.00
Annual Non-Recurring Charges: \$32750.00
Portion of Annual Non-Recurring Charges that is Ineligible: \$0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$32750.00
Total Program Year Pre-Discount Amount: \$32750.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Similarities in description on Forms 470 and in selective review responses among applicants associated with this vendor indicate that the vendor was improperly involved in the competitive bidding and vendor selection process.
Technology Plan Approval Status: Approved
Wave Number: 018
Applicant Letter Date: 05/10/2005